

Senate Bill 617

By: Senator Wiles of the 37th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 11 of Article 17 of Chapter 2 of Title 20 of the Official Code of Georgia
2 Annotated, relating to complaints policy for teachers and other school personnel, so as to
3 provide that local units of administration adopt a grievance policy; to revise certain
4 definitions; to revise certain provisions relating to matters not subject to complaint; to revise
5 certain provisions relating to establishment and contents of complaint policies; to revise
6 certain provisions relating to supplemental rules and policies authorized; to revise certain
7 provisions relating to appeals to the State Board of Education; to provide for related matters;
8 to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Part 11 of Article 17 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,
12 relating to complaints policy for teachers and other school personnel, is amended by striking
13 Code Section 20-2-989.5, relating to legislative intent and adoption of complaints policy, and
14 inserting in lieu thereof the following:

15 "20-2-989.5.

16 (a) It is the intent of this part to resolve problems at the lowest possible organizational
17 level with a minimum of conflict and formal proceedings so that good morale may be
18 maintained, effective job performance may be enhanced, and the citizens of the community
19 may be better served. These procedures require local units of administration to implement
20 a simple, expeditious, and fair process for resolving problems at the lowest administrative
21 level.

22 (b) It shall be the duty of all local units of administration to adopt a ~~complaints~~ **grievance**
23 policy for certified personnel that shall contain the definitions and standards provided in
24 this part."

SECTION 2.

Said part is further amended by striking Code Section 20-2-989.6, relating to definitions, and inserting in lieu thereof the following:

"20-2-989.6.

As used in this part, the term:

(1) 'Administrator' means the individual at each level designated by the local unit of administration to preside over and make decisions with respect to ~~complaints~~ grievances.

(2) 'Central office administrator' means the local school system superintendent or the director of a Regional Education Service Agency (RESA).

(3) '~~Complaint~~ Grievance' means any claim by a certified employee of any local unit of administration who is affected in his or her employment relationship by an alleged violation, misinterpretation, or misapplication of statutes, policies, rules, regulations, or written agreements of the local unit of administration with which the local unit of administration is required to comply.

(4) 'Local unit of administration' means the local board of education or the local board of control of a RESA."

SECTION 3.

Said part is further amended by striking Code Section 20-2-989.7, relating to matters not subject to complaint, and inserting in lieu thereof the following:

"20-2-989.7.

(a) ~~The performance ratings contained in personnel evaluations and professional development plans pursuant to Code Section 20-2-210 and job performance shall not be subject to complaint under the provisions of this part.~~ The termination, nonrenewal, demotion, suspension, or reprimand of any employee, as set forth in Code Section 20-2-940, and the revocation, suspension, or denial of certificates of any employee, as set forth in Code Section 20-2-984.5, shall not be subject to ~~complaint~~ grievance under the provisions of this part.

(b) A certified employee who chooses to appeal under Code Section 20-2-1160 shall be barred from pursuing the same ~~complaint~~ grievance under this part."

SECTION 4.

Said part is further amended by striking Code Section 20-2-989.8, relating to establishment and contents of complaint policy, and inserting in lieu thereof the following:

"20-2-989.8.

1 Local units of administration shall establish a complaint grievance policy that shall include
2 the following:

3 (1) A statement that a complaint grievance by the certified employee at the initial level
4 shall be in writing and shall clearly state the intent of the employee to access the
5 complaints grievances policy. All certified employees shall request in writing successive
6 levels of review;

7 (2) A method and time frame for filing complaints grievances and appeals, including
8 successive levels of appeal from the complainant's immediate supervisor to the central
9 office administrator to the local unit of administration, provided that the complainant
10 shall be entitled to file a complaint grievance within ten business days from the most
11 recent incident upon which the complaint grievance is based, and provided that the
12 complainant shall have a minimum of ten business days to file an appeal at any level up
13 to and including the local unit of administration, and provided that the total time frame
14 shall not exceed 60 days from the initiation of the complaint grievance until notification
15 to the complainant of the decision rendered by the local unit of administration;

16 (3) A statement setting forth the manner in which notice of the initial hearing and appeals
17 shall be given;

18 (4) A statement that the complainant shall be entitled to an opportunity to be heard, to
19 present relevant evidence, and to examine witnesses at each level;

20 (5) A provision whereby the complainant is entitled to the presence of an individual of
21 his or her choice to assist in the presentation of the complaint grievance to the
22 complainant's immediate supervisor, the central office administrator, and at the local unit
23 of administration level. ~~The policy shall also include a provision whereby the presence~~
24 ~~of any individual other than the complainant and the administrator at any lower level is~~
25 ~~specifically prohibited.~~ At the local unit of administration level nothing shall prevent the
26 local unit from having an attorney present to serve as the law officer who shall rule on
27 issues of law and who shall not participate in the presentation of the case for the
28 administrator or the complainant;

29 (6) Provisions for keeping an accurate record of the proceedings at each level, requiring
30 the proceedings to be recorded by mechanical means, preserving all evidence, and
31 requiring that these be made available at all times to the parties involved ~~but which~~
32 ~~provisions do not permit the presence of a third person at any level below the central~~
33 ~~office administrator or local unit of administration level;~~

34 (7) A statement that the complainant cannot present additional evidence at each level of
35 the complaint grievance process unless it is submitted in writing by the complainant five
36 days prior to the set date for the Level II and Level III hearing to the administrator

1 presiding over the ~~complaint~~ grievance. The board of the local unit of administration,
2 when hearing an appeal from a prior ~~complaint~~ grievance level, shall hear the ~~complaint~~
3 grievance de novo;

4 (8) A statement that each decision be made in writing and dated. Each decision shall
5 contain findings of fact and reasons for the particular resolution reached. The decision
6 reached at each ~~complaint~~ grievance level shall be sent to the complainant by certified
7 mail or statutory overnight delivery or hand delivered by a person designated by the
8 central office administrator within 20 days of the decision;

9 (9) A statement that any ~~complaint~~ grievance not processed by the administrator or the
10 local unit of administration within the time frames required by the local ~~complaint~~
11 grievance procedure and this part shall be forwarded to the next level of the ~~complaint~~
12 grievance procedure;

13 (10) A provision that all costs and fees shall be borne by the party incurring them unless
14 otherwise agreed upon by the parties involved, except that the cost of preparing and
15 preserving the record of the proceedings shall be borne by the local board of education;
16 and

17 (11) A statement that a complainant shall not be the subject of any reprisal as a result of
18 filing a ~~complaint~~ grievance under this part. Should any reprisal occur, the complainant
19 may refer the matter to the Professional Standards Commission."

20 SECTION 5.

21 Said part is further amended by striking Code Section 20-2-989.9, relating to supplemental
22 rules and policies authorized, and inserting in lieu thereof the following:

23 "20-2-989.9.

24 Nothing in this part shall be construed to prevent a local unit of administration from
25 adopting supplemental rules and policies not inconsistent with this part that grant additional
26 substantive and procedural rights to the complainant with respect to this part; provided,
27 however, that a local unit of administration may not establish additional levels of review
28 which would extend the total time frame beyond 60 days from the initiation of the
29 grievance until notification to the complainant of the decision rendered by the local unit of
30 administration."

31 SECTION 6.

32 Said part is further amended by striking Code Section 20-2-989.11, relating to appeals to the
33 State Board of Education, and inserting in lieu thereof the following:

34 "20-2-989.11.

1 Appeals from the decision of the local unit of administration may be made to the Georgia
2 Board of Education and such appeals shall be governed by state board policy and Code
3 Section 20-2-1160."

4 **SECTION 7.**

5 All laws and parts of laws in conflict with this Act are repealed.